

In The United States District Court For The Middle District Of Pennsylvania

Gartor Kiki Brown

V.

Maxwell et al.,

FILED
SCRANTON

AUG 21 2019

No. 18-CV-01527

PER  DEPUTY CLERK

Plaintiff's Brief For leave To Conduct Discovery Within Motion TO Address His Proposed Amended Complaint

I am hereby Plaintiff in this matter and I state this is my brief as herein.

Plaintiff will first like to put defendant's lawyer MS. Bedell on notice that he will be seeking leave to file a supplemental complaint after the exhaustion of the grievance pursuant to the second assault plaintiff has suffered since the denial of his T.R.O. motion in which the assaults are in contrast to such denial as the assaults are related to plaintiff's claims to which defendant consistently plan him around the alleged sexual assault & his violent group member friends after then are aware the the group member are aware that plaintiff meet with defendant Maxwell and state police after the sexual assault.

- 1) Now Plaintiff in this case has yet to file any discovery because of the contour and circumstances of the case after his complaint was struck, in which Brown did seek leave for but may not had seeked leave for all defendants predicated.
- 2) The Court did not make clear as to Brown's Amended Complaint (Doc. 25) was still pending to litigate, as Brown is pro se.
- 3) This would cause an interlocutory appeal based on the court's denial to reopen & Brown's confusion, (Doc 44)
- 4) After the appeal was dismissed, the courts addressed plaintiff's motion to leave to file a propose amended complaint.
- 5) Plaintiff's Complaint was send out on June 16, 2019.
- 6) On August 5, 2019 a deposition was conducted by MS. Bedell inasmuch as beautiful as she was respectful, she did give Brown the opportunity to assert his concerns on record, in which one of Brown's concerns were defendant's retaliatory action by turning his water off in his cell for days and threatening him not to come to the deposition.
- 7) On August 6, 2019 Plaintiff wrote the courts asking if they received his proposed amended complaint after also making MS. Bedell aware that he had yet to receive anything on it.
- 8) Brown is claiming the fact that he had yet to get any response from the courts pursuant to the proposed Complaint would put a hole in any discovery matter, and also there was no scheduling order on the case directing him as to when factual discovery, expert reports, responsive or supplemental expert reports, expert depositions, dispositive motions, and final pre trial conference as is all to the court's discretion would be due.
- 9) The court should not turn a blind eye as to Plaintiff is litigating serious claims in house, so for any reason if his propose Amended Complaint was not received in June, then it was clearly inserted & Plaintiff reserve the right to send it with this motion here enclose a two page Complaint front & back on one page.
- 10) Lastly, MS. Bedell did set up another deposition as she did not get all her questions in with the limited time. After the first deposition defendant would retaliate by turning Brown's water off for three days in which he would only drink milk from the warming trays and threatening him consistently tampering with his food, losing Brown's state charges, 35th, name, D.O.B. etc to another inmate that Brown is enemies with, this is after they passed what seem to be a discovery motion from MS. Bedell to inmate Allen after moving him next to Brown to hang on Brown's wall & threatening him Brown made all this he knew at the first deposition in which it happened a year after the deposition. This would scare Brown, Plaintiff is open to conduct another deposition with a court order and with the litigation coordinator MS. Green getting involve so that he's not subject to retaliation from the very same official he's suing.



1913 This is a civil rights actions filed by Gortor Kiki Brown a state Prisoner, for damages Under 42 U.S.C. 1983, alleging Failure to Protect, denial or delay of medical care, all under Cruel and Unusual Punishment in Violation of the Eighth Amendment to the United States Constitution, and due Process clause of the Fourteenth Amendment of the Constitution. The Plaintiff is also asserting torts of negligence and intentional Infliction of Emotional Distress.

1. The Court has Jurisdiction over the Plaintiff's claims of Violation of federal Constitutional rights under 42 U.S.C. 1331 (1) and 1342.
2. The Court has Supplemental Jurisdiction over the Plaintiff's state law tort claims under 28 U.S.C. 1367.
3. The Plaintiff Gortor Kiki Brown is incarcerated at SCI Huntingdon Correctional Facility and was incarcerated at SCI Huntingdon during the events described in this Complaint.
4. Defendant LT Maxwell and c/o Fochtman are Correctional Officers and are employed at SCI Huntingdon in which Maxwell was in charge of P.R.E.A. and Fochtman is a Correctional officer that works in the Administrative Segregation Unit at SCI Huntingdon both defendants are sued in their individual capacities. Both officials still work at SCI Huntingdon.
5. Defendant Plocnik and Johnston are Correctional Officers employed at SCI Huntingdon in which they are officers in the Administrative Segregation Unit, both officers are being sued in their individual capacity. Both officials still work at SCI Huntingdon.
6. LT. Kendrick and Sgt. Heaster are Correctional Lieutenant and Sergeant at the time of the events both officials were officers in the Administrative Segregation Unit at SCI Huntingdon both officials are being sued in their individual capacity and still work at SCI Huntingdon.
7. Defendants c/o Chilcote and c/o Harris are employed Correctional officers at SCI Huntingdon c/o Chilcote no longer works in the Administrative Segregation but c/o Harris is. Plaintiff is unaware if c/o Chilcote still works at SCI Huntingdon; c/o Harris is still employed at SCI Huntingdon, both officials are being sued in their individual capacity.
8. On 10/23/17 Plaintiff was admitted to SCI Huntingdon, at the door I told LT Maxwell and others that I was subject to Victimization by a Sexual Predator while at Camp Hill while in the R.H.U. Brown aka made LT Maxwell aware that he was a homosexual in which was transparent because he talk like a girl, switch his hips when he walks, and wears eyeliner.
9. Brown meet with LT. Maxwell on 2/27/18 telling him that c/o Plocnik told him that he would be moving with A inmate Allen, Plaintiff made it clear that Allen was already a known enemy in which while on the same unit in Population A c/o slipped inmate Jackson Brown's cellmate in which is best friends with Allen a legal mail grievance about a sexual assault in which Brown suffered, and that he was working with the Police, Jackson would put a shank to Brown's back forcing him to call council members to put money on him and Allen's books.
10. Brown claims would be ignored and was told force would be use. On 2/3/18 Plaintiff was forced in a cell with inmate Allen after he made c/o Plocnik and Clerk aware what he told Maxwell. At one point Plocnik asserting "Allen is waiting for you, he's going to fuck you up!" Inmate Allen made it clear he did not want Brown in the cell with him, calling him a rat and a homosexual.
11. After the cell's came off while Plaintiff was in the cell an assault took place on Plaintiff, at no time did Plocnik stop the assault. Plocnik also saying "have fun with him!"
12. Brown would tell other officials and ask for medical attention such as c/o Harris, c/o Poorman, Maxwell, Garlik, Plocnik, Unit Manager Kendrick ect. While Plaintiff was in the cell with Allen, inmate Allen would go to the yard three times, each time Brown would be force to cuff up and told not to come out the cell and stand in the back of the cell wall as they let inmate Allen out. Brown would take this time to boss officials to let him out the cell. Allen would also tell officials "get him the fuck out my cell!"
13. On 2/5/18 Brown was let out for showers in which he was walking very slow and of some told c/o Harris and c/o Law that he was subject to Multiple assaults. Inmate Allen would also tell officials "you let the rat go, get back in my cell I am going to kill him, c/o Harris would tell Brown, "if you don't get back in there force will be used accommodating with a write up. Plaintiff would go as far as telling Eric Parsons a Psychologist he was suicidal in which he was ignored.
14. Plaintiff would again meet with Unit Manager Kendrick, telling him he has been putting "help me sleep in" and his symptoms was worsening, double vision, bruised ribs, back pain ect. Kendrick would tell Plaintiff the next time they let you out the cell do not look in even if they say "we will use force." Allen would also talk to Kendrick telling him "I am going to kill this rat, then hitting Brown."
15. After or around 5:00 PM on 2/7/18 Brown called c/o Chilcote & told him he had suffered injuries from his belly assaulting him, in which he did not feel safe in the cell with him. Allen then hit Brown in the face and told him to stop crying, then started yelling at c/o Chilcote "get him the F out my cell or he will be sucking my dick pretty soon."

16. "their are open cells, Put him in one" c/o Chilcole then left the block & came back, asking "Allen if you would like to move in the cell with another inmate there is a open cell But Brown has to stay in this corner cell, in which I was told by Heaster, Maxwell and Kendrick" "Fuck no I am good where I am at, get Gator out my cell"
17. c/o Chilcole walked off like all the other defendants when he should have stayed on post. Because of defendant's actions, in the middle of the night on 2/5/18 Brown was attacked by inmate Allen the sexual predator in attempting to rape him, hitting Slaming chockins and trying to get through his jumper. Brown would suffer head injury ribs, leg & knee ect.
18. Plaintiff is claiming LT, Maxwell, c/o Plocinik, c/o Chilcole, unit manager Kendrick was all aware or had "Subjective" acknowledgment of the a substantial risk of harm to Plaintiff, after forcing him in the cell with a violent iter, then witnessing and ignoring his cry for help and medical injuries from multiple assaults. Prisoners also have the right to be free from physical attack and injury caused by other inmates insofar as it is a liberty interest protected by the due process clause. Brown is claiming these defendants were deliberately indifferent to that substantial risk to his health and safety in which their indifference caused harm. Brown is claiming these defendants violated his Eighth Amendment rights in which they failed to protect him, then they was deliberately indifference to his medical needs in which he was subject to cruel & unusual punishment. Amendment by work of due process clause in which his liberty interest is protected and defendant's actions caused him harm. Plaintiff is also claiming defendants were in negligence in duty and breach that duty is also causing him emotional distress and sleepless nights.
19. Plaintiff would meet with c/o Johnston on 2/6/18 and tell him what was going on, he too would tell Brown "Heaster, Maxwell, & Kendrick, Kaitman they all want you in this corner cell." Brown would also tell c/o Fochtman his injuries in which Allen would come to the door asking and demanding that he remove the fat out his cell or he would start to beat him.
20. On 2/7/18 Plaintiff would again meet with other officials including unit manager Kendrick again Brown cry for help was ignored by this defendant with Brown also killing him Allen had attempted to rape him.
21. Later that day sometime after 4:00 PM Brown talked to c/o Johnston that he was a wife of open cells on the block and again asked to be moved, that's when Plaintiff started to get sick of this shit. He would attack Brown as Johnston ran off. Allen then started to hit Brown & tried through his jumpers. That time Brown had no choice left, Allen started to have sex with Brown. After the sexual assault Brown walked to the door and started to call for help.
22. c/o Johnston came to the door telling Brown sit, Heaster & Kendrick and LT Brown was aware but they wanted Brown to stay in the cell. Brown would tell Johnston "But I was just sexually assaulted" c/o Chilcole also walked to the cell asking "Holy shit, from the sex & blood I have nothing to do with this shit but the fact is, c/o Fochtman would come to the cell door asking and making fun of Brown "which one of you can I want up for fighting" Heaster and long walks me to write Yall up. Brown would tell Fochtman to move him and he needs medical attention. Fochtman would assent "We don't make courtesy moves" c/o Plocinik would also come to the cell door assenting "I told you Allen was going to fuck you up."
23. c/o Johnston came back assenting sit. Heaster want you to give me all that blue blood on it. Brown pulled up his jumper, sheets, and boxers & socks. Brown had sheets around him when he was attacked because he was cold.
24. Sgt Heaster then came on the block, he would come all the way by Plaintiff's door after other inmates were yelling for help. Brown too would tell him and ask for help. Sgt Heaster would tell Brown medical was called, they want nothing to do with you. Heaster would walk away leaving Plaintiff in the cell with the sexual predator.
25. Brown was subject to another sexual assault in the middle of the night in which he suffered more injuries. Inmate Allen would put his towel up demanding that officials open the cell door and let the fat out and that if he comes out for hard he's not talking in. Officials c/o Harris, Pormann, Galtik would burn Allen for hard and ignore Brown after he told them what happened with the sexual assaults.
26. Plaintiff would also claim anal pain, urethra pain, hip & ribs pain, sciatic pain along the thigh, numbness along the head, bruises and contusions, double vision ect as to c/o Plocinik, Fochtman, Johnston, Heaster, Chilcole ect.
27. Plaintiff is claiming Sgt Heaster, c/o Johnston, Harris, Fochtman all had "Subjective" acknowledgment of the substantial risk of harm to Plaintiff, as did LT Maxwell, c/o Plocinik, c/o Chilcole, Kendrick after forcing him or ignoring him while in the cell with a violent iter also depriving or denying medical treatment in which his injuries suffered be free from physical, sexual and sexual assaults. Prisoners also have the right to be protected by the due process. Brown is claiming these defendants failed to protect him, in which he was subject to cruel & unusual punishment. The harshness suffered violated Brown's due process. Plaintiff also claims negligence & emotional distress. Plaintiff suffered from the events and is asking for \$550,000 each defendant in Cam Kenston damages, & \$25,000 each defendant in punitive damages. I declare under Penalty of Perjury that the foregoing is true & correct.

Certificate of Service

I Gertor Kiki Brown hereby States that I am Plaintiff in this case. ON 8 day of 18

20 19 I Certify that Plaintiff's leave to Conduct Discovery With in Motion to address his Proposed Amended Complaint, also a copy of his Proposed Amended Complaint that was already Send to the Courts on June 16, 2019 is being resend and Put into the Prison's mail box for first class mail to the address below.

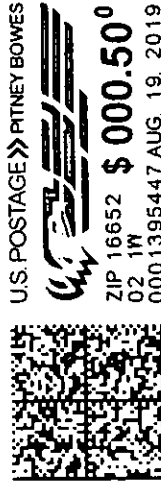
United States District Court
235 North Washington Ave
P.O. Box 1148
Scranton, PA 18501

Dated 8/19/19

Gertor Brown NAGCIN
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16654
Gertor K. Brown

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INMATE MAIL
PA DEPARTMENT
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United States District Court
235 North Washington Ave
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